

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KROUTCHEV DEMOSTHENE,

Plaintiff,

14 CV 816 (SJ) (VMS)

v.

ORDER ADOPTING
REPORT AND
RECOMMENDATION

CITY OF NEW YORK et al.,

Defendants.

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A P P E A R A N C E S

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JOHNSON, U.S.D.J.:

Presently before the Court is a Report and Recommendation (“Report”) prepared by Magistrate Judge Vera M. Scanlon. Judge Scanlon issued the Report on June 26, 2015, recommending that this Court grant in part and deny in part plaintiff Kroutchev Demosthene’s (“Plaintiff”) motion to file a Second Proposed

Amended Complaint. For the reasons stated herein, this Court affirms and adopts the Report in its entirety.

A district court judge may designate a magistrate judge to hear and determine certain motions pending before the Court and to submit to the Court proposed findings of fact and a recommendation as to the disposition of the motion. See 28 U.S.C. § 636(b)(1). Within 10 days of service of the recommendation, any party may file written objections to the magistrate's report. See id. Upon *de novo* review of those portions of the record to which objections were made, the district court judge may affirm or reject the recommendations. See id. The Court is not required to review, under a *de novo* or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the report and recommendation to which no objections are addressed. See Thomas v. Arn, 474 U.S. 140, 150 (1985). In addition, failure to file timely objections may waive the right to appeal this Court's Order. See 28 U.S.C. § 636(b)(1); Small v. Sec'y of Health and Human Servs., 892 F.2d 15, 16 (2d Cir. 1989).

In this case, Plaintiff failed to file timely objections despite having been granted an extension of time. Accordingly, as recommended by Judge Scanlon, Plaintiff's motion is granted in part and denied in part, as follows: (1) Plaintiff may amend the complaint to include federal and state law claims against Detective Roberts, Sergeant Pierre, and Detective Haber, (2) Plaintiff may also amend the

complaint to include excessive force claims against Lieutenant Klein; (3) Plaintiff may add a deliberate indifference claim against Detective Haber and Lieutenant Klein. Plaintiff's motion is denied in all other respects. Plaintiff shall file the Second Proposed Amended Complaint within ten days and Defendants must answer within ten days of that filing. SO ORDERED.

Dated: August 28, 2015
Brooklyn, NY

_____/s/_____
Sterling Johnson, Jr., U.S.D.J.